In the High Court of Punjab and Haryana at Chandigarh.

CWP No.17245 of 2001

Date of decision:29.08.2007.

Dilbagh Singh .... Petitioner

Versus

Punjab State Electricity Board, Patiala and another.

.... Respondents.

Present: Mr.N.P.S. Mann, Advocate, for the petitioner.

None for the respondents.

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PERMOD KOHLI, J. (Oral):

None is present on behalf of the respondents. Even reply to this petition has not been filed. The petition is heard in the absence of the respondents.

The admitted facts as available on record are that the petitioner has joined the service of Punjab State Electricity Board, as a work charged employee on 03.03.1966, as a Auto Foreman. On account of the participation in some strike, he was removed from service of the Board on 06.05.1974. Later on, he was re-appointed on the same post on 03.08.1976 in the same capacity of a work charged employee. In the year 1986, petitioner's name was recommended for regularisation vide memo No.13436 dated 22.1.1986. At the relevant time, there was no rule or policy decision for rgularisation. However, in the year, 1994, the State Government took a policy decision to the effect that the work charged employees, who have

worked for more than 10 years in the Board as on 31.03.1994, their services be regularised. This decision was in respect to such of the workman/employees, who are working on a post where there were no promotional channel open for regularisation of service. Pursuant to the policy decision dated 18.08.1994, a seniority list of work charge employees came to be prepared on 01.01.1995 and the petitioner's name appeared at serial No.37 in the said seniority list. Even after the aforesaid policy decision, petitioner's services were not regularised. The petitioner retired from service on attaining the age of superannuation on 01.12.1996. At the time of retirement, he continued to be on the work charge basis. He made a representation dated 08.08.2000 for regularisation and consequential benefits of pension. Having failed to receive any response or relief from the respondents, the petitioner has filed the present writ petition, seeking a direction for regularisation of his services with effect from the date of his joining, for payment of pension and other post retiral benefits.

I have heard the learned counsel for the petitioner at length and perused the record of the case.

It is not in dispute that the petitioner continued un-interruptedly in service as a work charge employee right from 03.03.1966 till 01.12.1996. The State Government also took a policy decision for regularisation of the services and the petitioner is, admittedly, qualified for such regularisation under the government policy notified vide policy decision dated 31.03.1994. Even prior to the formation of this policy, his case was recommended for regularisation on 22.1.1986. His name was further brought on the list of work charged employee on the basis of

seniority list prepared in the year 1995. A Full Bench judgment of this Court in the case of Kesar Chand Vs. State of Punjab and others, (1950-1988) Recent Services Judgments (Vol.1), 433, also held that the work charged employees, who have worked for more than 10 years service, are entitled to be regularised. However, the question of regularisation of the employees is now set at rest by a Constitutional Bench of the Hon'ble Apex Court in Secretary, State of Karnataka and others Vs. Umadevi and others, 2006 (4) SCC, 01. The Hon'ble Apex Court has given directions as a one time exception for regularisation of such of the employees, who have completed more than 10 years of service, where initial appointment was irregular and not illegal. Such directions are contained in paragraph 53 of the aforesaid judgment which reads as follows:-

> "One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in S.V. Narayanappa (supra), R.N. Nanjundappa (supra) and B.N. Nagrajan (supra), and referred to in paragraph 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of the courts or of tribunals. The question of regularization of the services of such employees may have to

be considered on merits in the light of the principles settled by this Court in the cases abovereferred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularise as a one-time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of the courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularization, if any already made, but not sub judice, need not be re-opened based on this judgment, but there should be no further by passing of the constitutional requirement and regularizing or making permanent, those not duly appointed as per the constitutional scheme."

In view of the aforesaid directions, let case of the petitioner be considered by a Committee constituted by the State Government within six months. If not already constituted, then the same be constituted at the earliest and the case of the petitioner be considered as directed. In the event the claim is to be rejected it shall be by a speaking and reasoned order. Out come of the consideration be also communicated to the petitioner. Further if the claim of the petitioner is accepted, consequential benefits be released to him within a period of three months thereafter.

With the directions aforesaid, writ petition is disposed of.

(PERMOD KOHLI)
August 29, 2007. JUDGE
BLS

Note: Whether to be referred to the Reporter: Yes/ No